

oath and their testimony may be reduced to writing.

(b) Written statements and reports submitted as evidence by witnesses shall be sworn to before an officer authorized to administer oaths and such statements and/or reports shall be signed.

§ 4.07-35 Counsel for witnesses and parties in interest.

(a) All parties in interest shall be allowed to be represented by counsel, to examine and cross-examine witnesses and to call witnesses in their own behalf.

(b) Witnesses who are not parties in interest may be assisted by counsel for the purpose of advising such witnesses concerning their rights; however, such counsel will not be permitted to examine or cross-examine other witnesses or otherwise participate in the investigation.

§ 4.07-45 Foreign units of Coast Guard, investigation by.

Investigations of marine casualties conducted by foreign units of the Coast Guard shall be in accordance with the regulations in this part and all actions taken in connection with the investigations of such marine casualties entered in the official log(s) of the vessel(s) concerned.

§ 4.07-55 Information to be furnished Marine Board of Investigation.

When a Marine Board of Investigation is convened in accordance with § 4.09-1, the investigating officer shall immediately furnish the board with all testimony, statements, reports, documents, papers, a list of witnesses including those whom he has examined, other material which he may have gathered, and a statement of any findings of fact which he may have determined. The preliminary investigation shall cease forthwith and the aforementioned material shall become a part of the Marine Board of Investigation's record.

Subpart 4.09—Marine Board of Investigation

§ 4.09-1 Commandant to designate.

If it appears that it would tend to promote safety of life and property at sea or would be in the public interest, the Commandant may designate a Marine Board of Investigation to conduct an investigation.

[CGD 76-170, 45 FR 77441, Nov. 24, 1980]

§ 4.09-5 Powers of Marine Board of Investigation.

Any Marine Board of Investigation so designated shall have the power to administer oaths, summon witnesses, require persons having knowledge of the subject matter of the investigation to answer questionnaires, and to require the production of relevant books, papers, documents or any other evidence. Attendance of witnesses or the production of books, papers, documents or any other evidence shall be compelled by a similar process as in the United States District Court. The chairman shall administer all necessary oaths to any witnesses summoned before said Board.

§ 4.09-10 Witnesses, payment of.

Any witness subpoenaed under § 4.09-5 shall be paid such fees for his travel and attendance as shall be certified by the chairman of a Marine Board of Investigation or an investigating officer, in accordance with § 4.11-10.

§ 4.09-15 Time and place of investigation, notice of; rights of witnesses, etc.

Reasonable notice of the time and place of the investigation shall be given to any person whose conduct is or may be under investigation and to any other party in interest. All parties in interest shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses in their own behalf.

§ 4.09-17 Sessions to be public.

(a) All sessions of a Marine Board of Investigation for the purpose of obtaining evidence shall normally be open to

the public, subject to the provision that the conduct of any person present shall not be allowed to interfere with the proper and orderly functioning of the Board. Sessions will not be open to the public when evidence of a classified nature or affecting national security is to be received.

§ 4.09-20 Record of proceedings.

The testimony of witnesses shall be transcribed and a complete record of the proceedings of a Marine Board of Investigation shall be kept. At the conclusion of the investigation a written report shall be made containing findings of fact, opinions, and recommendations to the Commandant for his consideration.

§ 4.09-25 U.S. Attorney to be notified.

The recorder of a Marine Board of Investigation shall notify the United States Attorney for the District in which the Marine Board of Investigation is being conducted of the nature of the casualty under investigation and time and place the investigation will be made.

§ 4.09-30 Action on report.

Upon approval of the report of a Marine Board of Investigation the Commandant will require to be placed into effect such recommendations as he may deem necessary for the better improvement and safety of life and property at sea.

§ 4.09-35 Preferment of charges.

(a) If in the course of an investigation by a Marine Board there appears probable cause for the preferment of charges against any licensed or certificated personnel, the Marine Board shall, either during or immediately following the investigation and before the witnesses have dispersed, apprise the District Commander of such evidence for possible action in accordance with part 5 of this subchapter, without waiting for the approval of the report by the Commandant. Such action or proceedings shall be independent and apart from any other action which may be later ordered by the Commandant or taken by other authorities.

Subpart 4.11—Witnesses and Witness Fees

§ 4.11-1 Employees of vessels controlled by Army or Navy as witnesses.

No officer, seaman, or other employee of any public vessel controlled by the Army or Navy (not including the Coast Guard) of the United States, shall be summoned or otherwise required to appear as a witness in connection with any investigation or other proceeding without the consent of the Government agency concerned.

§ 4.11-5 Coercion of witnesses.

Any attempt to coerce any witness or to induce him to testify falsely in connection with a shipping casualty, or to induce any witness to leave the jurisdiction of the United States, is punishable by a fine of \$5,000.00 or imprisonment for one year, or both such fine and imprisonment.

§ 4.11-10 Witness fees and allowances.

Witness fees and allowances are paid in accordance with 46 CFR 5.401.

[CGD 79-080, 45 FR 2046, Jan. 10, 1980, as amended by CGD 96-041, 61 FR 50726, Sept. 27, 1996]

Subpart 4.12—Testimony by Interrogatories and Depositions

§ 4.12-1 Application, procedure, and admissibility.

(a) Witnesses shall be examined orally, except that for good cause shown, testimony may be taken by deposition upon application of any party in interest or upon the initiative of the investigating officer or Marine Board of Investigation.

(b) Applications to take depositions shall be in writing setting forth the reasons why such deposition should be taken, the name and address of the witness, the matters concerning which it is expected the witness will testify, and the time and place proposed for the taking of the deposition. Such application shall be made to an investigating officer or the Marine Board of Investigation prior to or during the course of the proceedings.